

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RAMIRO CANALES #01244960 §
VS. § CIVIL ACTION NO. 6:11CV190
CORRECTION OFFICER V STEPHEN R. §
ROBERTSON, ET AL.

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie. The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, concludes that this civil rights action should be dismissed for failure to prosecute and failure to obey an order pursuant to Fed. R. Civ. P. 41(b) and E.D. Tex. L.R. 41. The Plaintiff has filed written objections (docket entry #44). In his objections, Plaintiff does not offer an actual explanation for his failure to comply with the Court's Order to Answer and Scheduling Order. He only cites "certain unseen circumstances" that prevented him from complying with discovery disclosure requirements or submitting required witness and exhibit information. In his accompanying Motion for an Extension of Time (docket entry #45), he contends that he recently lost the assistance of another inmate who advised him on legal matters, he has been on restrictions that have prevented him from conducting legal research and recently was away from the unit for unspecified medical reasons, but his failure to comply with the scheduling orders predates those occurrences. Furthermore, he did not require any particular research to comply with discovery disclosure requirements and informing the Court of his potential witnesses and exhibits. Moreover, he was perfectly able to file responses to Defendants' Motion for Summary Judgment and to the Magistrate Judge's Report and

Recommendation. The latter point makes Plaintiff's Motion for Extension of Time rather mystifying; there, he only seeks additional time in which to respond to the Report and Recommendation and the Motion for Summary Judgment, but he clearly has done both already. Otherwise, he has not attempted to comply with the scheduling requirements.

Although the Magistrate Judge considered Plaintiff's conduct to be contumacious, defined as "stubborn resistance to authority," *Sampson v. Giles*, 410 Fed. Appx. 823, 825 (5th Cir. 2011) (per curiam), it appears that Plaintiff is simply lax. Accordingly, the Court will adopt the findings of the Magistrate Judge and dismiss his complaint without prejudice. It is accordingly

ORDERED that Plaintiff's objections are **OVERRULED** and the Report of the Magistrate Judge is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil case be and hereby is **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 41(b); E.D. Tex. L.R. 41. It is further

ORDERED that any and all other motions that may be pending in this civil action, including but not limited to Plaintiff's Motion for Extension of Time (docket entry #45), are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 2nd day of May, 2012.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE